

EXHIBIT 10

1

2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----x

5 Thomas LaMarco and Diane LaMarco,

6 Plaintiffs,

Civil Index No:

21 Civ. 3716

7 -against-

8 Suffolk County, New York, Commissioner

9 Rodney Harrison, Individually and in

10 his Professional capacity, Captain

11 William Scrima, Individually, Sgt.

12 William Walsh, Individually, Police

13 Officer "John" Plihcik, Individually,

14 and "John Does 1-5", Individually,

15 Defendants.

16 -----x

17 100 Federal Plaza

18 Central Islip, New York

19 November 21, 2023

9:57 a.m.

20
21 Deposition of Defendant

22 POLICE OFFICER CIARA PLIHCIK,

23 pursuant to Notice, before Diana

24 Mitchell, a Notary Public of the

25 State of New York.

Rich Moffett Court Reporting, Inc.

A P P E A R A N C E S:

THE BELLANTONI LAW FIRM, PLLC

Attorney for Plaintiff

2 Overhill Road, Suite 400

Scarsdale, New York 10583

BY: AMY L. BELLANTONI, ESQ.

SUFFOLK COUNTY DEPARTMENT OF LAW

Attorney for Defendants

100 Veterans Memorial Highway

Hauppauge, New York 11788

BY: ARLENE S. ZWILLING, ESQ.

IT IS HEREBY STIPULATED AND
AGREED by and between the attorneys
for the respective parties herein,
that the filing, sealing and
certification of the within
deposition be waived.

IT IS FURTHER STIPULATED AND
AGREED that all objections, except
as to the form of the question,
shall be reserved to the time of
the trial.

IT IS FURTHER STIPULATED AND
AGREED that the within deposition
may be sworn to and signed before
any officer authorized to
administer an oath with the same
force and effect as if signed and
sworn to before the Court.

- oOo -

C I A R A P L I H C I K,
called as a witness, having been duly
sworn by a Notary Public, was examined
and testified as follows:

* * *

EXAMINATION BY

MS. BELLANTONI:

Q Please state your full name
for the record.

A My name is Police Officer
Ciara Plihczik.

Q What is your address?

A My business address is
Command 5800, 30 Yaphank Avenue, Yaphank,
New York 11980.

Q Good morning.

A Good morning.

Q My name is Amy Bellantoni,
and I represent the plaintiffs in this
action filed in Suffolk County and
several individuals who either were
employed or are employed with the County
including yourself, and I will be asking
you questions today related to the

1
2 A The renewal applications are
3 scanned into the computer file.

4 Q When you say you reviewed the
5 911 calls, was that just the printouts or
6 did you review the audio as well?

7 A Just the printout.

8 Q What specifically were those
9 calls related to?

10 A They were related to the
11 LaMarcos' son Matthew.

12 Q Do you recall about how many
13 incidents you reviewed?

14 A I recall I believe two from
15 2017, possibly one from 2016 and one from
16 2019.

17 Q When you testified that you
18 reviewed the notes that were contained in
19 the file, were those notes in the
20 computer file or the hardcopy file?

21 A Computer file.

22 Q What was the sum and
23 substance of those notes?

24 A The notes were in sum and
25 substance that the LaMarcos were --

1
2 submitted an application for renewal,
3 which was reviewed by our secretarial
4 staff. It was revealed that there were
5 911 calls relating to their son Matthew,
6 the files were pulled for review and
7 subsequently suspended as a result.

8 Q What is your understanding of
9 the reason that the LaMarcos' pistol
10 licenses were suspended?

11 A Because they failed to notify
12 us that their son required mental health
13 assistance.

14 Q Why is that a grounds for
15 suspension?

16 A Because they're required to
17 notify us as per our handbook which they
18 signed for in 2021 agreeing to follow all
19 the rules and procedures.

20 Q Does the failure to notify
21 the Pistol Licensing Bureau that their
22 son required mental health assistance
23 constitute a violation, to your knowledge
24 as a police officer, of any penal law
25 provision?

1
2 result of any disciplinary proceeding?

3 A No.

4 Q What was your position in
5 Pistol Licensing when you were assigned
6 in 2017?

7 A Police officer/applicant
8 investigator.

9 Q Is that your current
10 assignment?

11 A Yes.

12 Q Generally, what are your
13 duties and responsibilities as an
14 applicant investigator?

15 A Investigating applicants.

16 Q How do you do that, or what
17 do you do in that respect?

18 A If someone applies for a
19 pistol license are you asking?

20 Q Yes.

21 A An initial application?

22 Q Application, yes.

23 A So initially we bring the
24 applicant in.

25 Q Well, let's start with when

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Q Are you regularly assigned to the window?

A No, not regularly, but sometimes.

Q Is that like if somebody is out sick you fill in?

A Correct.

Q So if you don't generally handle the renewals as an applicant investigator, who would handle the renewals in the office?

A Initially it would go to one of the secretarial staff members.

Q And then where would it go?

A Well, it depends.

Q If you know, so walk me through the different scenarios.

A I'm not overly familiar with it because I'm not involved with it, but it's my understanding that if there is no issues, then the renewal will be approved, if an issue comes up, then it would go to a supervisor.

Q Can the secretaries approve

1
2 the renewals if there is no issue or do
3 they still need to go to a supervisor?

4 A I don't know.

5 Q In this case with the
6 LaMarcos, you are aware that the issues
7 of the nonreporting of Matthew's mental
8 health treatment arose from the LaMarcos'
9 renewal of their pistol licenses; is that
10 correct?

11 A Yes.

12 Q What is your understanding or
13 what is your knowledge of how that came
14 to the --

15 A I wasn't aware.

16 Q You have to wait. I am
17 sorry, I know I paused and I apologize.
18 -- to the Licensing Bureau's
19 attention?

20 A I was aware of it when I was
21 assigned the files.

22 Q Do you recall approximately
23 when you were assigned the files?

24 A Approximately April of '21.

25 Q What information did you have

1
2 at the point in time where you were
3 assigned their files?

4 A I was notified that they had
5 failed to notify Pistol Licensing Bureau
6 of a mental health issue within their
7 household as they were required to do so.

8 Q Had their licenses been
9 suspended at that point in time already?

10 A When I received the file?

11 Q Yes.

12 A Yes.

13 Q Did you receive a hardcopy
14 file or just --

15 A Hardcopy.

16 Q Since being assigned to the
17 Pistol Licensing Bureau in or around
18 2017, what, if any, training did you
19 receive with regard to pistol licensing?

20 A When I first got there, I was
21 trained by another police officer or by
22 my team.

23 Q When you say "team," who do
24 you mean?

25 A So we have three teams, back

Department?

A Yes.

Q Have you received, or generally to your knowledge, has the Licensing Bureau received any training from the legal department within the last five years?

A Not that I'm aware of.

Q Have you received any training with regard to constitutional issues or 2nd Amendment-related rights in your assignment to the Pistol Licensing Bureau during official training?

A No.

Q How about unofficial?

A I mean, we discuss sometimes.

Q Is it just discussions between and among the Licensing Bureau staff or is it supervisory discussions with the staff?

A I would say both.

Q What was the sum and substance of those conversations?

A I can't recall specific

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conversations, it's just as things evolve
we discuss them.

Q You can't think of any
incidents at all?

A No.

Q What about Thomas LaMarco and
his eligibility to possess firearms
generally was negatively affected by his
son's ineligibility to possess firearms?

A Are you asking me why it was
suspended?

Q No, I am asking you how
Thomas LaMarco is ineligible to possess
handguns because his son happens to be
ineligible to possess handguns?

MS. ZWILLING: Objection.

You may answer.

A Because it's a common
practice at the Pistol Licensing Bureau
that the entire household is held to the
same standard as the licensee, the same
eligibility.

Q Who came up with that idea?

A I don't know.

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Q Has it always been that way since you worked there?

A Since I worked there, yes.

Q Have there been any discussions with the Licensing Bureau that you were involved in or personally heard regarding an individual's right to possess firearms versus another person that lives in the household?

A No, it's just been our common practice that everybody, if one person in the household is not eligible, the entire household is held to that.

Q So under what circumstances would the LaMarcos be able to have their suspension lifted?

A If they receive a note from their son's treating physician stating that there's no issues with him residing in a home with firearms or if his son moved out of his home.

Q What would the circumstances be if their son isn't able to obtain a note from a physician?

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2 A They'll remain on suspended
3 status.

4 Q At what point would their
5 license be cancelled or revoked?

6 A Based on the current file --

7 Q Yes.

8 A -- the current situation,
9 they will not -- they will just remain in
10 suspended status. They won't get
11 cancelled unless they fail to renew.

12 Q The LaMarcos are able to
13 renew their pistol license even in
14 suspended status?

15 A Yes.

16 Q Did you talk to any of the
17 police officers who responded to the
18 LaMarcos' household during any of the
19 incidents that you reviewed the 911
20 incidents for?

21 A No.

22 Q Did you request or schedule
23 any kind of home visit to ascertain how
24 the LaMarcos store their firearms?

25 A No.

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Q Did you ever learn from the LaMarcos how they store their firearms?

A I believe it's in the file. I don't recall if it's in their statement or it's in your letter, but yes, there is reference to how they store their firearms.

Q Did you take that as true or it wasn't relevant?

A It wasn't relevant.

Q How come?

A Because their safe storage of the firearms is not under debate, it's not under question.

Q Oh, okay, so you're taking that as true then that they do safely store their firearms in the manner they describe?

A I am not taking it any way. I haven't witnessed it myself.

Q If the LaMarcos store their firearms in such a manner that they are not accessible to their son Matthew or any other third party, then why can't

their suspension be lifted?

A Again, as the common practice in my office, that if one person is in the household is ineligible, then the entire household is ineligible.

Q Is Matthew ineligible to possess firearms?

A Yes.

Q And how so?

A Because we would require a doctor's note stating that he is capable of possessing firearms before he would get approved.

Q Based on what? In other words, what information do you have in your files that indicate that Matthew is firearms prohibited?

A He was transported to psyche ward for a mental health evaluation.

Q And a transport itself is enough to disqualify someone from firearms possession?

A Yes.

Q You said a few times that

1
2 it's the common practice in the Pistol
3 Licensing Bureau to enforce this policy
4 of the handbook; is that right?

5 A Yes.

6 Q Who in the police department
7 or the Pistol Licensing Bureau would have
8 the authority to override that general
9 policy?

10 A I don't know.

11 Q If you, and I'm not saying
12 that you do, if you disagreed with the
13 policy, do you have the authority to
14 reinstate the pistol licenses of the
15 LaMarcos?

16 A No.

17 Q Who would have that
18 authority?

19 A I don't know.

20 Q Did you receive an
21 authorization from the LaMarcos that was
22 signed by their son Matthew for you to
23 obtain his medical records from Catholic
24 Charities hospital?

25 A I received a medical release

signed by Matthew, yes.

Q What did you do with that release?

A I believe I sent it to the doctor. I'm not 100 percent if he -- if they received the note from the doctor or if I sent a medical release and the doctor sent the note to me, I don't recall.

Q You received a note from the doctor?

A Well, I received -- there is a note in the file from Catholic Health Charities, I don't recall how it got there.

Q Do you recall speaking with anyone from Catholic Charities?

A No.

Q Did you try to reach out to anyone from the hospital?

A No.

Q And how come?

A How come what exactly?

Q Why didn't you try to reach

1
2 out to anyone from Catholic hospitals?

3 MS. ZWILLING: Not Catholic
4 hospitals, Catholic Charities.

5 MS. BELLANTONI: Is that not
6 a hospital?

7 MS. ZWILLING: It's not a
8 hospital.

9 MS. BELLANTONI: Catholic
10 Charities.

11 MS. ZWILLING: It's not a
12 hospital.

13 MS. BELLANTONI: What is it?

14 MS. ZWILLING: It's an
15 organization. It's not a hospital.

16 MS. BELLANTONI: Is it a
17 mental health facility?

18 MS. ZWILLING: It's a general
19 charitable organization that does a
20 lot of things.

21 MS. BELLANTONI: Including
22 mental health treatment?

23 MS. ZWILLING: I think they
24 do all sorts of things, like run
25 soup kitchens and you name it.

1
2 It's an umbrella organization, as
3 far as I know.

4 MS. BELLANTONI: Okay. Thank
5 you. So I'll just make a note,
6 Catholic Charities.

7 Q You didn't try to reach out
8 to anyone from Catholic Charities?

9 A No.

10 Q Did you not reach out to
11 Catholic Charities because it was a
12 requirement that whatever information
13 came from a treater it needed to be in
14 writing?

15 A Yes.

16 Q Is there any other reason why
17 you didn't reach out to Catholic
18 Charities?

19 A No.

20 Q So the only thing that the
21 Pistol Licensing, just to be clear, that
22 the Pistol Licensing Bureau is waiting
23 for is something in writing from
24 Matthew's treater or some other doctor
25 that indicates that he is firearms

eligible?

A From his treating physician.

Q That he is firearms eligible?

A That he's eligible to reside
in a home with firearms.

Q Do you recall having any
conversations with Sergeant Walsh, at the
time I guess it was Sergeant Walsh,
regarding the LaMarcos?

A I don't recall any specific
conversations.

Q When you were assigned their
file, their renewal file, how did you
receive it, was it from the secretarial
staff or from Sergeant Walsh, if you
recall?

A It could have been either. I
don't recall.

Q I am going to show you what
has been previously marked as Plaintiff's
Exhibit 3, and just go through it and
just look through it so you can
familiarize yourself with it.

A With this whole thing? Want

me to read this whole thing right now?

Q Yeah.

A I'm familiar with most of this. I can look back on it if you have questions that I need to clarify.

Q Yes, that's fine.

I was wondering if anywhere in that exhibit is located the Catholic Charities notation.

A It's mentioned in their statement. I see it mentioned in their statement. I don't see the note from Catholic Health Charities, unless I'm missing it.

MS. ZWILLING: Okay.

Q You would still have a copy of that in the Pistol Licensing Bureau?

A Yes.

MS. BELLANTONI: I would just ask, and I will follow up in writing, I am going to ask for a copy of that note.

A Okay.

Q So you can maybe put it to

the side so that it can be produced.

MS. BELLANTONI: Can you mark
the transcript?

Q Assuming that you received a
note from Matthew's treating physician
indicating that it's okay for him to
reside in a home that also has firearms
located in the home, what would the next
step be?

A That would be the first step
in beginning the reevaluation of their
competence or the reevaluation as to
whether or not they can be reinstated.

Q What would the next step be?

A I would do an investigation.

Q And what would you
investigate?

A Many variables. I mean,
basically, I would investigate both them
and the household.

Q Specifically, let's say for
instance, you would run their background
check to see if they had any convictions
since their last renewal?

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2 A Yes, I would run a computer
3 check.

4 Q What would that computer
5 check entail?

6 A I would check our system to
7 see if any 911 calls were generated, that
8 would be one step.

9 Q Okay, what else?

10 A I would run the household.
11 When I say "run," I mean I would do a
12 background check on members of the
13 household. It's just how we phrase it.

14 Q For what purpose would you
15 check everybody else in the household
16 through your system?

17 A Because it's our common
18 practice that everybody in the household
19 is held to the same standard.

20 Q And then what else would you
21 do, assuming there was nothing in the
22 running of the backgrounds?

23 A So you're asking me what I
24 would do if there was nothing in the
25 background and they had a note from his

treating physician?

Q Yes.

A Saying that he was competent to reside in a home with firearms?

Q Yes.

A I would get updated statements from both of the licensees.

Q Okay, and what would you want them to put in the statements?

A Well, that would be their statements.

Q Well, so you're just going to send them something that says, Send me a statement? Like, what are you looking for?

A Send me an updated, basically, just an updated statement on what occurred in the household.

Q You want them to reiterate what you already asked them to put in writing?

A And put any new incidents in there, also.

Q That weren't reported in the

1
2 system?

3 A That occurred.

4 Q Okay, and if there was
5 nothing reported in the system as a
6 result of their background check, you're
7 going to ask them if there were any other
8 incidents that occurred?

9 A Yes, I would ask them for an
10 updated statement.

11 Q And then you would check that
12 to see whether they reported those
13 incidents to the Pistol Licensing Bureau
14 in accordance with the handbook?

15 A Yes, I would do a thorough
16 background check.

17 Q And if there were additional
18 incidents that didn't show up in your
19 background check that they didn't report
20 to the Pistol Licensing Bureau, that
21 would further cause a suspension of
22 their --

23 A It's possible.

24 Q Because they didn't comply
25 with the handbook?

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A Correct.

Q Which is not a law under New York State law?

A I don't know.

Are you asking me to quote the law?

Q Well, you know, you're a police officer working in the Pistol Licensing Bureau, do you think that --

MS. ZWILLING: She's not an attorney.

Q -- do you think that it is your responsibility as a police officer enforcing the pistol licensing rules and regulations to know what the state of the law is?

MS. ZWILLING: Objection.
You may answer.

A I follow the common practice of our office.

Q Without question?

A Yes.

Q Assuming there were no other incidents listed in the LaMarco

statement, what would the next step be?

A Again, there are many variables, but assuming there were no incidents and we had a note from Matthew's doctor, his treating physician, then they would probably get reinstated, but again, there's so many variables.

Q I'd like to know what they are.

A What the variables are?

Q Yes.

A Each case is different.

Q Well, I'd like to know specifically to the LaMarcos, what are the variables so they know the path forward to getting their 2nd Amendment rights reinstated by Suffolk County?

MS. ZWILLING: Objection. Is your question --

MS. BELLANTONI: Yes, I would like to know the variables.

A So specific to the LaMarcos, they would need a background check, they would need a note from the doctor, and if

all of that was clear, then they could get reinstated.

Q They wouldn't need to write another statement down?

A I already said they would need another statement.

Q Yes, they would?

A Yes, they would.

Q I am showing you what has been marked as Exhibit 2, and the first two pages of that exhibit are the release of medical records that was filled out and signed by Matthew LaMarco. Do you see the first two pages?

A Yes.

Q That medical release is within the file that is maintained in the Pistol Licensing Bureau?

A Yes.

Q Did you testify that you did not send this release out to the hospital to obtain Matthew LaMarco's -- I'm sorry, out to Catholic Charities, my apologies, to receive the records that they have